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STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

IP 2001(10)

INFORMATIONAL PUBLICATION

Procedures for Making Offers of Compromise

Purpose: This Informational Publication explains the procedures for making an offer of compromise to the Department of Revenue Services (DRS) for resolving disputes from the application or enforcement of Connecticut tax laws.

Effective Date: Upon issuance.

Statutory Authority: Conn. Gen. Stat. §12-2d.

Offers of Compromise: The Commissioner of Revenue Services or a designated agent of the Commissioner of Revenue Services is authorized to compromise any controversy arising from the application or enforcement of any Connecticut General Statute over which the Commissioner has authority.

Grounds for Compromise: The Commissioner or his designated agent may compromise a liability for any of the following reasons:

- Doubt as to liability;
- Doubt as to collectibility; or
- Doubt both as to liability and as to collectibility.

Doubt as to Liability: *Doubt as to liability* exists where there is a genuine dispute as to the existence or amount of the correct tax liability under the law. Doubt as to liability does not exist where the liability has been established by a final determination letter, or if timely appealed to the Superior Court, by a final court decision concerning the existence or amount of the liability. Every offer of compromise based on doubt as to liability must involve a tax assessed by an audit assessment (and not a self-assessed tax) and may only be made after the notice of assessment has been issued.

The person to whom an offer based on doubt as to liability should be submitted: If an offer of compromise is initially made before a final determination letter is issued by the Appellate Division, the offer should be submitted to the Director of the Appellate Division. If an offer of compromise is initially made after a final determination letter is issued by the Appellate Division but before the final determination is appealed to the Superior Court, the

offer should be submitted to the Director of the Legal Division. If an offer of compromise is initially made after a final determination has been appealed to the Superior Court, the offer should be submitted to the General Counsel.

Not a protest or an appeal: Making an offer of compromise does not in and of itself:

- Constitute the filing of a protest of an audit assessment, or extend the time to protest an audit assessment; or
- Constitute the taking of an appeal to the Superior Court, or extend the time to take an appeal to the Superior Court.

Delegation order: The authority granted to the Commissioner of Revenue Services under Conn. Gen. Stat. §12-2d to compromise any controversy between a taxpayer and DRS (excluding any controversy arising from the application or enforcement of the provisions of Chapter 216 of the Connecticut General Statutes) based on doubt as to liability is delegated under **Delegation Order No. 5 (Rev. 1)** to the following officials:

- The Director of the Appellate Division, if the difference between the dollar amount (including interest, penalty, and addition to tax) of the offer of compromise accepted by DRS and the dollar amount (including interest, penalty, and addition to tax) for which the taxpayer was assessed or for which the taxpayer claimed a refund is less than \$25,000.
- The Director of the Legal Division or the General Counsel, regardless of the dollar amount.

Doubt as to Collectibility: *Doubt as to collectibility* exists in any case where the taxpayer's assets and income are less than the full amount of the correct tax liability. An offer of compromise based on doubt as to collectibility may involve a tax assessed by an audit assessment, in which event, the offer may only be made after the notice of assessment has been issued, or a self-assessed tax.

The person to whom an offer based on doubt as to collectibility should be submitted: If an offer of compromise is based solely on doubt as to collectibility

(and is not based both on doubt as to liability and as to collectibility), the offer should be submitted to the Director of the Collection and Enforcement Division (C&E Division). The taxpayer will be required to make a full financial disclosure to the C&E Division. An offer of compromise will generally be accepted when it is unlikely that DRS would be able to collect the full amount owed, and the amount offered reasonably reflects collection potential.

Delegation order: The authority granted to the Commissioner of Revenue Services under Conn. Gen. Stat. §12-2d to compromise any controversy between a taxpayer and DRS based on doubt as to collectibility is delegated under **Delegation Order No. 2 (Rev. 1)** to the Director of the C&E Division, the Director of the Legal Division, and the General Counsel.

Doubt Both as to Liability and as to Collectibility:

Doubt both as to liability and as to collectibility exists where there is a genuine dispute as to the existence or amount of the correct tax liability under the law, and where the taxpayer's assets and income are less than the full amount of the correct tax liability. Every offer of compromise based on doubt both as to liability and as to collectibility must involve a tax assessed by an audit assessment (and not a self-assessed tax) and may only be made after the notice of assessment has been issued.

The person to whom an offer based on doubt both as to liability and as to collectibility should be submitted: If an offer of compromise is initially made before a final determination letter is issued by the Appellate Division, the offer should be submitted to the Director of the Appellate Division. If an offer of compromise is initially made after a final determination letter is issued by the Appellate Division but before the final determination is appealed to the Superior Court, the offer should be submitted to the Director of the Legal Division. If an offer of compromise is initially made after a final determination has been appealed to the Superior Court, the offer should be submitted to the General Counsel.

Circumstances Under Which DRS Will Generally Not Accept an Offer of Compromise:

DRS will generally not accept an offer of compromise based on doubt as to liability for:

- An audit assessment that has become final; or
- Amounts not yet formally assessed (through the issuance of a notice of assessment).

DRS will generally not accept an offer of compromise based on doubt as to collectibility if:

- It relates to self-assessed "trust fund" taxes (for example, sales and use taxes; income tax

withholding; admission or dues taxes; and motor vehicle fuels taxes) that were collected or withheld from retail customers or employees but that were not paid over to DRS;

- It relates to taxes that, in DRS's judgment, reasonably may be expected to be payable, in installments, from future income or future-acquired assets;
- The debtor has other assets, income, or outstanding liabilities that are not disclosed in the offer; or
- It appears to have been made as a delaying strategy, and collection of the tax is in jeopardy.

Decision Not to Accept an Offer of Compromise Is Not Reviewable:

A decision by the Commissioner or his designated agent not to accept an offer of compromise shall be final and shall not be subject to review by the Superior Court.

Effect on Other Documents: None affected.

Effect of This Document: An Informational Publication is a document that addresses frequently asked questions about a current DRS position, policy, or practice, usually in a less technical question and answer format.

For Further Information: Please call DRS during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

Forms and Publications: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: **www.drs.state.ct.us**
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone.